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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/921,448	08/02/2001	Edward Moore	103794-399-NP	6114

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Gabriel P. Katona  
Goodwin Procter L.L.P.  
599 Lexington Avenue, 40th Floor  
New York, NY 10022

EXAMINER

EDELL, JOSEPH F

ART UNIT	PAPER NUMBER
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3636

DATE MAILED: 09/17/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/921,448

Applicant(s)

MOORE, EDWARD *NE*

Examiner

Joseph F Edell

Art Unit

3636

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 June 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 and 3-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 August 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 9.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Drawings*

1. This application has been filed with informal drawings which are acceptable for examination purposes only. Formal drawings will be required when the application is allowed.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1 and 3-5 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 1,271,170 to Jellinek et al.

Jellinek et al. disclose a chair that includes all the limitations recited in claims 1 and 3-5. Jellinek et al. show a chair having a base 6 (Fig. 4), a cantilever arm 14 (Fig. 1) pivotally connect to the base, a seat 27 (Fig. 1) attached to a first end of the cantilever arm and tiltable, and an extendible brake 23 (Fig. 1) attached to the first end of the cantilever arm and having a ground engaging surface 24 (Fig. 1) being movable from an elevated first position (Fig. 1) in which the ground engaging surface is not in contact with a ground surface and a second position (Fig. 2) wherein the ground engaging surface is in contact with the ground surface to inhibit relative displacement and rotation between the first end of the cantilever arm and the base.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 6-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jellinek et al. in view of U.S. Patent No. 336,220 to Farrar.

Jellinek et al. disclose a chair that is basically the same as that recited in claims 6-12 except that the chair lacks a telescopically extendable cantilever arm, a rotatable, height adjustable seat, and a knee rest, as recited in the claims. Farrar shows a chair similar to that of Jellinek et al. wherein the cantilever arm B<sup>6</sup> (Fig. 1) that is telescopically extendable and includes two members and a stop to inhibit telescopic movement of the two members, a seat D (Fig. 1) that is rotatably attached to the cantilever arm, a seat B<sup>8</sup> (Fig. 1) with a back support, a removable knee rest (Fig. 1), and a base B (Fig. 1). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the chair of Jellinek et al. such that the cantilever arm is telescopically extendable and includes two members and a stop to inhibit telescopic movement of the two members beyond a predetermined maximum extension, and a seat that is rotatably attached to the first end of the cantilever arm as well as height adjustable wherein the seat includes a back support and a removable knee rest, such as the chair disclosed in Farrar. One would have been motivated to make such a modification in view of the suggestion in Farrar that the

base, telescopically extendable cantilever arm, and seat allows for a dentist chair that enables the operator to be placed in any desired position with reference to the person being operated upon.

6. Claims 13-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Farrar in view of PCT Publication WO 00/22965 to Locker.

Jellinek et al. disclose a chair that is basically the same as that recited in claims 13-17 except that the chair lacks a leveler, as recited in the claims. Locker shows a chair similar to that of Jellinek et al. wherein the base 6 (Fig. 2) is secured to a ground surface 3 (Fig. 2) by a leveler 8 (Fig. 1) having multiple interconnected threaded members. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the chair of Jellinek et al. such that the base is secured to the ground surface by a leveler having three interconnected threaded members. One would have been motivated to make such a modification in view of the suggestion in Locker that the threaded members permanently attach the base to the ground surface to prevent unintentional tipping of the seat.

7. Claims 1, 3, 4, 6-8, and 18-24 rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,400,032 to dePolo in view of EP Publication No. 0 870 476 A1 to Edlinger.

DePolo discloses a chair that is basically the same as that recited in claims 1, 3, 4, 6-8, and 18-24 except that the chair lacks a brake with an elevated first position and engaging second position, as recited in the claims. See Figures 1-17 of dePolo for the teaching that the chair has a base 6 (Fig. 1), a cantilever arm 4 (Fig. 1) pivotally connect

to the base wherein the cantilever arm is telescopically extendable via two members 4a,4b (Fig. 1) and a stop (Fig. 11) to inhibit movement of the two members beyond a predetermined extension, and a seat 1 (Fig. 1) rotatably attached to a first end of the cantilever arm. Edlinger show a chair similar to that of dePolo wherein the chair has a seat 3 (Fig. 1) and a brake (Fig. 4) activated by tilting movement of a seat member 17 (Fig. 1) to provide support for a user in a first disengaged position and being moveable by a user while supported into a second engaged position wherein the brake engages the ground with a ground engaging surface 59 (Fig. 2). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the chair of dePolo such that the cantilever arm has a brake has a ground engaging surface and the brake being activated by titling movement of the seat to provide support for a user in a first position wherein the brake is disengaged and being movable by a user while support by the seat to a second position wherein the brake is engaged, such as the chair disclosed in Edlinger. One would have been motivated to make such a modification in view of the suggestion in Edlinger that the chair with a brake prevents unwanted rotation of the chair.

### ***Response to Arguments***

8. Applicant's arguments with respect to claims 1 and 3-24 have been considered but are moot in view of the new ground(s) of rejection. With respect to the general arguments distinguishing the teachings of Jellinek et al. from the claimed invention, it is noted that the features upon which applicant relies (i.e., a user can move the cantilever

arm from an engaged position to an engaged position while the seat is occupied therefore the user would not need to get out of the seat to move it to the desired position and the brake can be applied while the user is seated and a time desired by the user) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Both amended claims 1 and 17 merely define a brake having ground engaging surface wherein the ground engaging surface is moveable between an elevated first position and a contacting second position to inhibit relative displacement and rotation between the cantilever arm and the base, as taught in Jellinek et al. Next, it is noted that the applicant's argument that there is no suggestion to combine Farrar in view of Jellinek et al. is not applicable to the current 35 U.S.C. 103(a) of Jellinek et al. in view of Farrar. Motivation for the current rejection is recited above.

### ***Conclusion***

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph F. Edell whose telephone number is (703) 605-1216. The examiner can normally be reached on Mon.-Fri. 8:30am-5:00pm.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-2168.



JE

September 7, 2003



Peter M. Cuomo  
Supervisory Patent Examiner  
Technology Center 3600